



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference S 2838	FOR FURTHER ACTION	See Form PCT/IPEA/416				
International application No.	International filing date (day/month/yea	r) Priority date (day/month/year)				
PCT/EP2003/013622	03 December 2003 (03.12.2003	04 December 2002 (04.12.2002)				
International Patent Classification (IPC) or national classification and IPC C08B 31/02, 33/02, 35/02, A61K 47/48						
Applicant SUPRAMOL PARENTERAL COLLOIDS GMBH						
This report is the international prelin Authority under Article 35 and trans	 This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 					
2. This REPORT consists of a total of	5 sheets, including this co	ver sheet.				
3. This report is also accompanied by	ANNEXES, comprising:					
a. (sent to the applicant and	to the International Bureau) a total of	6 sheets, as follows:				
sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).						
	sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the					
b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).						
4. This report contains indications rela	ting to the following items:	•				
Box No. I Basis of the re	port					
Box No. II Priority						
Box No. III Non-establish	ment of opinion with regard to novelty, ir	ventive step and industrial applicability				
Box No. IV Lack of unity	of invention					
citations and e	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement					
Box No. VI Certain docum						
	Box No. VII Certain defects in the international application					
Box No. VIII Certain observations on the international application						
Date of submission of the demand	Date of complet	ion of this report				
15 May 2004 (15.05.2	2004)	15 March 2005 (15.03.2005)				
Name and mailing address of the IPEA/EP	Authorized office	er				
Facsimile No.	Telephone No.	Telephone No.				

Translation



International application No.

PCT/EP2003/013622

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item. This report is based on translations from the original language into the following language which is language of a translation furnished for the purpose of: international search (under Rules 12.3 and 23.1(b)) publication of the international application (under Rule 12.4) international preliminary examination (under Rules 55.2 and/or 55.3) 2. With regard to the elements of the international application, this report is based on (replacement sheets which hav furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally and are not annexed to this report): The international application as originally filed/furnished the description: pages 1, 2, 4-17 , as originally filed/	ye been y filed"					
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pages 1, 2, 4-17 , as originally filed/						
	004)					
pages* 3 received by this Authority on 24 September 2004 (24.09.26						
pages* received by this Authority on						
the claims:						
pages, as originally filed/	furnished					
pages* , as amended (together with any statement) under						
pages* 1-34 received by this Authority on 24 September 2004 (24.09.20						
pages* received by this Authority on						
the drawings:						
	Granials and					
pages 1-4 , as originally filed/spages* received by this Authority on	idilisied					
pages* received by this Authority on						
a sequence listing and/or any related table(s) see Supplemental Box Relating to Sequence Listing.						
3 The amendments have resulted in the cancellation of:						
the description, pages						
the claims, Nos.						
the drawings, sheets/figs						
the sequence listing (specify):						
any table(s) related to sequence listing (specify):	,					
This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)). the description, pages the claims, Nos						
the drawings, sheets/figs						
the sequence listing (specify):						
any table(s) related to sequence listing (specify):						
* If item 4 applies, some or all of those sheets may be marked "superseded."						

INTERNATIONAL PRELIMATARY EXAMINATION REPORT

I. Basis of the report

1. This report has been drawn on the basis of (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

The features regarding the active substance that were included in the redrafted claim 34 cannot be derived from the passages of the description indicated by the applicant. The indications on page 2, paragraphs 2 and 3, of the description, are not relevant already because they do not relate to the prior art. The other cited passage on page 4, lines 12-19, of the description, relates mainly to aldonic acid esters and their properties. The only unambiguous statement regarding the active substances is that they can bear phosphate groups. The amendments to claim 34 are not adequately supported by this statement either.

The examination is therefore based on the unaltered version of claim 34.

INTERNATIONAL PRELIMARY EXAMINATION REPORT

Intern		application No.		
	PCT/EP	03/13622		

v.	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
ı	citations and explanations supporting such statement

				
1.	Statement	-	,	
	Novelty (N)	Claims	1-33	YES
		Claims	34	NO
	Inventive step (IS)	Claims		YES
		Claims	1-33	NO NO
	Industrial applicability (IA)	Claims	1-34	YES
		Claims		NO
				

2. Citations and explanations

Novelty:

The Offenlegungschriften DE-A-196 28 705 (D1) and DE-A-101 12 825 (D2) describe protein-carbohydrate conjugates obtained by coupling carbohydrates selectively oxidised at the reducing end directly to protein amino groups. The reaction between carbohydrate and protein is direct (see D1) or follows activation with EDC (see D2, example 2). The conjugates as per claim 34 appear to have the same composition and structure as the known conjugates and therefore can no longer be considered novel.

Inventive step:

D2 is considered to represent the closest prior art. The invention addressed the problem of finding an alternative preparation method for the conjugates known from D2. This problem was solved by using an alternative activation medium, preferably N-hydroxysuccinimide, instead of the activation medium used in D2, EDC, and by obtaining a corresponding aldonic acid ester as intermediate product.

The Offenlegungsschrift DE-A-30 29 307 (D3) teaches that N-hydroxysuccinimide can be an alternative to EDC when

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producing conjugates of proteins and carbohydrates (see page 16, last paragraph). Documents US-A-4 125 492 (D4) and EP-A-0 418 523 (D3) describe the preparation of N-hydroxysuccinimide-activated aldonic acids in detail, and their use in protein conjugation (D4: column 9, lines 26-33; D5: page 7). No novelty can therefore be recognised in the preparation method as per claims 20 and 29 or in the aldonic acid ester intermediate products, nor in the compositions containing the same.



Blatt Nr. .4.. ERKLÄRUNG: ERFINDERERKLÄRUNG (nur im Hinblick auf die Bestimmung der Vereinigten Staaten Feld Nr. VIII (iv) von Amerika) Die Erklärung muß dem in Abschnitt 214 vorgeschriebenen Wortlaut entsprechen; siehe Anmerkungen zu den Feldern VIII, VIII (i) bis (v) (allgemetn) und tnsbesondere die Anmerkungen zum Feld Nr. VIII (tv). Wird dieses Feld nicht benutzt, so sollte dieses Blatt dem Antrag nicht beigefügt werden. Erfindererklärung (Regeln 4.17 Ziffer iv und 51bis.1 Absatz a Ziffer iv) im Hinblick auf die Bestimmung der Vereinigten Staaten von Amerika:

Ich erkläre hiermit an Eides Statt, daß ich nach bestem Wissen der ursprüngliche, erste und alleinige Erfinder (falls nachstehend nur ein Erfinder angegeben ist) oder Miterfinder (falls nachstehend mehr als ein Erfinder angegeben ist) des beanspruchten Gegenstandes bin, für den ein Patent beantragt wird. Diese Erklärung wird im Hinblick auf und als Teil dieser internationalen Anmeldung abgegeben (falls die Erklärung zusammen mit der Anmeldung eingereicht wird). Diese Erklärung wird im Hinblick auf die internationale Anmeldung Nr. PCT/ abgegeben (falls diese Erklärung nach Regel 26ter eingereicht wird). Ich erkläre hiermit an Eides Statt, daß mein Wohnsitz, meine Postanschrift und meine Staatsangehörigkeit den neben meinem Namen aufgeführten Angaben entsprechen. Ich bestätige hiermit, daß ich den Inhalt der oben angegebenen internationalen Anmeldung, einschließlich ihrer Ansprüche, durchgesehen und verstanden habe. Ich habe im Antragsformular dieser internationalen Anmeldung gemäß PCT Regel 4.10 sämtliche Auslandsanmeldungen angegeben und habe nachstehend unter der Überschrift "Frühere Anmeldungen", unter Angabe des Aktenzeichens, des Staates oder Mitglieds der Welthandelsorganisation, des Tages, Monats und Jahres der Anmeldung, sämtliche Anmeldungen für ein Patent bzw. eine Erfinderurkunde in einem anderen Staat als den Vereinigten Staaten von Amerika angegeben, einschließlich aller internationalen PCT-Anmeldungen, die wenigstens ein anderes Land als die Vereinigten Staaten von Amerika bestimmen, deren Anmeldetag dem der Anmeldung, für welche Priorität beansprucht wird, vorangeht. Frühere Anmeldungen: 102 56 558.9 4. Dezember 2002 Ich erkenne hiermit meine Pflicht zur Offenbarung jeglicher Informationen an, die nach meinem Wissen zur Prüfung der Patentfähigkeit in Einklang mit Title 37, Code of Federal Regulations, § 1.56 von Belang sind, einschließlich, im Hinblick auf Teilfortsetzungsanmeldungen, Informationen, die im Zeitraum zwischen dem Anmeldetag der früheren Patentanmeldung und dem internationalen PCT-Anmeldedatum der Teilfortsetzungsanmeldung bekannt geworden sind. Ich erkläre hiermit, daß alle in der vorliegenden Erklärung von mir gemachten Angaben nach bestem Wissen und Gewissen der Wahrheit entsprechen, und ferner, daß ich diese eidesstattliche Erklärung in Kenntnis dessen ablege, daß wissentlich und vorsätzlich falsche Angaben oder dergleichen gemäß § 1001, Title 18 des US-Codes strafbar sind und mit Geldstrafe und/oder Gefängnis bestraft werden können und daß derartige wissentlich und vorsätzlich falsche Angaben die Rechtswirksamkeit der vorliegenden Patentanmeldung oder eines aufgrund deren erteilten Patentes gefährden können. Name: Dr. Klaus Sommermeyer Wohnsitz: DE (Stadt und US-Staat, falls anwendbar, sonst Land) Postanschrift: In der Laubach 26 61191 Rosbach v.d.H., DE Staatsangehörigkeit: DE Unterschrift des Erfinders: . . . (falls nicht bereits das Antragsformular unterschrieben wird oder falls die Erklärung nach Einreichung der internationalen Anmeldung nach Regel 26ter berichtigt oder hinzugefügt wird. Die Unterschrift muß die des Erfinders sein, nicht die des Anwalts) (der Unterschrift, falls das Antragsformular nicht unterschrieben wird oder der Erklärung, die nach Regel 26ter nach Einreichung der internationalen Anmeldung berichtigt oder hinzugefügt Name: (Stadt und US-Staat, falls anwendbar, sonst Land) Postanschrift: Staatsangehörigkeit: Datum: (falls nicht bereits das Antragsformular unterschrieben wird oder falls die Erklärung nach Einreichung der internationalen Anmeldung nach Regel 26ter berichtigt oder hinzugefügt wird. Die Unterschrift muß die des Erfinders sein, nicht die des Anwalts) (der Unterschrift, falls das Antragsformular nicht unterschrieben wird oder der Erklärung, die nach Regel 26ter nach Einreichung der internationalen Anmeldung berichtigt oder hinzugefügt wird)

Diese Erklärung wird auf dem folgenden Blatt fortgeführt, "Fortsetzungsblatt für Feld Nr. VIII (iv)".